

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

COMMODITY FUTURES TRADING)
COMMISSION,)

Plaintiff,)

vs)

TODD J. DELAY,)

Defendant.)

Case No. 7:05CV5026

**MEMORANDUM
AND ORDER**

Despite the fact that only one defendant remains, and the case is very near trial, the able lawyers continue to file motions. As of April 26, 2006, at 3:10 P.M., I have considered all pending motions, and now rule upon them or schedule them for ruling.¹ Accordingly,

IT IS ORDERED that:

1. The plaintiff's appeal (filing 264) of Judge Piester's ruling regarding David Bessler is denied, subject, however, to my decision rendered on April 21, 2006. (Filing 273.)

¹John D. Lawless and Jack McCaffery have been dismissed but no judgment has been entered yet. In order to avoid confusion as trial approaches, I have shortened the caption to omit a reference to these men. When a judgment is entered as between the plaintiff and Lawless and McCaffery, another caption appropriate to those specific parties will be used.

2. The Clerk of the Court shall terminate the “objections” (filings 261 and 262) from the motions list as they are notices and not motions.
3. The motions to exclude Gary Holcomb (filing 266) and Wade Pearson (filing 269), witnesses for Mr. McCaffery, are denied as moot given the dismissal of Mr. McCaffery.
4. The plaintiff’s motion to amend and file instanter (filing 284) a corrected exhibit in support of the plaintiff’s motion relative to judicial admissions is granted.
5. The plaintiff’s motion (filing 287) to deem Mr. Delay’s responses in his answer to be judicial admission will be taken up at the meeting with counsel on the first day of trial. The related motion of Delay (filing 290) to amend his answer will be taken up at the same time.

April 26, 2006.

BY THE COURT:

s/Richard G. Kopf
United States District Judge